

**199.502 Conditions necessary for adoption without consent of child's biological living parents -- Court decision -- Representation of biological parent.**

- (1) Notwithstanding the provisions of KRS 199.500(1), an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as part of the adoption proceeding that any of the following conditions exist with respect to the child:
  - (a) That the parent has abandoned the child for a period of not less than ninety (90) days;
  - (b) That the parent had inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;
  - (c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;
  - (d) That the parent has been convicted of a felony that involved the infliction of serious physical injury to a child named in the present adoption proceeding;
  - (e) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child, and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;
  - (f) That the parent has caused or allowed the child to be sexually abused or exploited;
  - (g) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child;
  - (h) That:
    1. The parent's parental rights to another child have been involuntarily terminated;
    2. The child named in the present adoption proceeding was born subsequent to or during the pendency of the previous termination; and
    3. The condition or factor which was the basis for the previous termination finding has not been corrected;
  - (i) That the parent has been convicted in a criminal proceeding of having caused or contributed to the death of another child as a result of physical or sexual abuse or neglect; or
  - (j) That the parent is a putative father, as defined in KRS 199.503, who fails to register as the minor's putative father with the putative father registry established under KRS 199.503 or the court finds, after proper service of notice and hearing, that:

1. The putative father is not the father of the minor;
  2. The putative father has willfully abandoned or willfully failed to care for and support the minor; or
  3. The putative father has willfully abandoned the mother of the minor during her pregnancy and up to the time of her surrender of the minor, or the minor's placement in the home of the petitioner, whichever occurs first.
- (2) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter findings of fact, conclusions of law, and a decision either:
- (a) Granting the adoption without the biological parent's consent; or
  - (b) Dismissing the adoption petition, and stating whether the child shall be returned to the biological parent or the child's custody granted to the state, another agency, or the petitioner.
- (3) A biological living parent has the right to legal representation in an adoption wherein he or she does not consent. The Circuit Court shall determine if a biological living parent is indigent and, therefore, entitled to counsel pursuant KRS Chapter 31. If the Circuit Court so finds, the Circuit Court shall inform the indigent parent; and, upon request, if it appears reasonably necessary in the interest of justice, the Circuit Court shall appoint an attorney to represent the biological living parent pursuant to KRS Chapter 31 to be provided or paid for by:
- (a) The petitioner, a fee to be set by the court and not to exceed five hundred dollars (\$500); or
  - (b) The Finance and Administration Cabinet if the petitioner is a blood relative or fictive kin as established in KRS 199.470(4)(a), a fee to be set by the court and not to exceed five hundred dollars (\$500).

**Effective:** July 14, 2018

**History:** Amended 2018 Ky. Acts ch. 159, sec. 35, effective July 14, 2018. -- Amended 1998 Ky. Acts ch. 57, sec. 18, effective March 17, 1998. -- Created 1994 Ky. Acts ch. 242, sec. 10, effective July 15, 1994.